

Source: <http://scc.lexum.umontreal.ca/en/2003/2003scc7/2003scc7.html>

R. v. Feeley, [2003] 1 S.C.R. 64, 2003 SCC 7

Robert William Feeley

Appellant

v.

Her Majesty The Queen

Respondent

Indexed as: R. v. Feeley

Neutral citation: 2003 SCC 7.

File No.: 29271.

2003: February 20.

Present: McLachlin C.J. and Bastarache, Binnie, Arbour and Deschamps JJ.

on appeal from the court of appeal for ontario

Criminal law — Charge to jury — Reasonable doubt — Accused convicted of second degree murder — Pre-Lifchus charge on reasonable doubt in substantial compliance with principles set out in Lifchus.

Cases Cited

Applied: *R. v. Rhee*, [2001] 3 S.C.R. 364, 2001 SCC 71; **referred to:** *R. v. Lifchus*, [1997] 3 S.C.R. 320.

APPEAL from a judgment of the Ontario Court of Appeal (2001), 55 O.R. (3d) 481, 149 O.A.C. 204, 156 C.C.C. (3d) 449, 46 C.R. (5th) 307, [2001] O.J. No. 3359 (QL), upholding the accused's conviction for second degree murder. Appeal dismissed.

Todd Ducharme and Joseph Di Luca, for the appellant.

Eric Siebenmorgen and Laura Hodgson, for the respondent.

The judgment of the Court was delivered orally by

1 ARBOUR J. — The Court of Appeal did not have the benefit of this Court's decision in *R. v. Rhee*, [2001] 3 S.C.R. 364, 2001 SCC 71, in deciding whether this pre-*Lifchus* charge was in substantial compliance with the principles articulated in *R. v. Lifchus*, [1997] 3 S.C.R. 320, and in assessing whether there is in this case a real concern that the jury may have misapprehended its task.

2 Applying *Rhee*, we can find no reason to interfere with the conclusion reached by the majority of the Court of Appeal.

3 Therefore, the appeal is dismissed.

Judgment accordingly.

Solicitor for the appellant: Todd Ducharme, Toronto.

Solicitor for the respondent: Attorney General of Ontario, Toronto.